

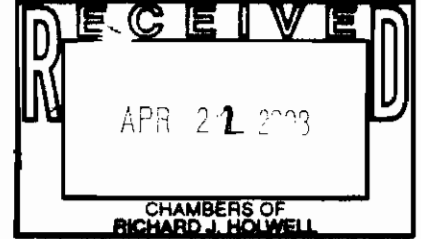
**Cooley**  
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/22/08	Douglas P. Lobel 703.456.8100 dlobel@cooley.com
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April 22, 2008

VIA FACSIMILE (212.805.7948)

The Honorable Richard J. Holwell  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007



**Re: E\*TRADE Financial Corp., et al. v. Hernandez, et al., No. 08 CV 2993**

Dear Judge Holwell:

We represent Plaintiffs in the above-referenced action. I am informed by my office that yesterday you signed an order to show cause setting a hearing for Wednesday April 23 at 3:00 pm and requiring Plaintiffs to file a brief today at 5:00 p.m.

I am currently in Salt Lake City and will be appearing today at a motions hearing before the Hon. Ted Stewart in *TON Serv., Inc. v. Qwest Corp.*, No. 1-1:04-cv-0035TS (D. Utah). On Wednesday, April 23rd, I will be appearing at a Rule 16(b) Scheduling Conference in Denver before Magistrate Judge Michael E. Heggarty in *Securities & Exch. Comm'n v. Arnold et al.*, No. 03-cv-00328-REB-MEH (D. Colo.). I will not be arriving back in Virginia from Denver until 1:00 a.m. EDT on this Thursday April 24. Accordingly, it would be impossible for me to appear on Wednesday April 23 as ordered. I respectfully request that the Court move the order to show cause hearing until this Friday, April 25, and that we be allowed to submit our response by 5:00 p.m. EDT on Thursday April 24.

Defense counsel was well aware of my schedule. Mr. Lukanski, counsel for Banc of America, approached me last week about engaging in settlement discussions. In response, I sent an email to all defense counsel Sunday April 20 informing them that I would be out of town at various court proceedings Monday through Wednesday. Counsel made their application at a time and in a manner when it was inevitable that I would be hampered in responding due to my travel schedule.

In light of my unavoidable and preexisting scheduling conflicts, I ask the Court's indulgence in moving the hearing date. I would note that we are early in the pendency of the injunction and thus there is no prejudice to Defendants. Thank you for your consideration.

Respectfully submitted,

*Douglas P. Lobel / HBL*


Douglas P. Lobel

**Cooley**  
GODDARD KRONISH LLP

The Honorable Richard J. Holwell  
April 21, 2008  
Page Two

cc: Thomas J. Momjian, Esq.  
John O. Lukanski, Esq.  
Paul A. Saso, Esq.  
(All via electronic mail)

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The order to show cause hearing is adjourned until Monday, April 28, 2008 at 11:30 a.m. Plaintiff shall file any opposition by April 24, 2008 at 5:00 p.m.	
SO ORDERED: Date: 4/22/08	 Richard J. Holwell, U.S.D.J.